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June 18, 2012

Rick Sullivan, Secretary  
Executive Office of Energy & Environmental Affairs  
100 Cambridge Street  
Boston, MA 02108

Mark Sylvia, Commissioner  
Department of Energy Resources  
100 Cambridge Street  
Boston, MA 02108

**Re: Proposed Final Regulations Governing Eligibility of Biomass under the MA RPS**  
225 CMR 14.00 et seq. (released April 27, 2012)

Dear Secretary Sullivan and Commissioner Sylvia:

For the last twenty-five years, Toxics Action Center has organized with communities across Massachusetts working to clean up and prevent pollution. We view biomass incineration for electricity as a potential health hazard and NOT a clean renewable energy source. We are especially concerned about particulate pollution. Biomass plant air emissions include substantial amounts PM<sub>2.5</sub>, which is linked to increased human morbidity and mortality and causing or exacerbating asthma, heart disease, and cancer.

We greatly appreciate the Department of Energy Resources' ("DOER's") extensive work to bring the Massachusetts Renewable Energy Portfolio Standard ("RPS") regulations governing the eligibility of woody biomass into line with the requirements of the Massachusetts Global Warming Solutions Act ("GWSA"), as reflected in the proposed final regulations and guidance released on April 27, 2012. With the latest revisions, the proposed final regulations and guidance are expected to guard against inefficient and carbon-intensive uses of woody biomass that would undermine Massachusetts's compliance with the GWSA. In doing so, the revised rules establish nation-leading standards for biomass policy in terms of robust carbon accounting, greenhouse gas (GHG) emission limits, minimum efficiency thresholds and biomass harvest residue retention standards.

We commend you for striving to ensure that the proposed final regulations and guidance are based on the latest science, notably as reflected in the June 2010 Biomass Sustainability and Carbon Policy Study prepared by the Manomet Center for Conservation Sciences (“Manomet Study”). We particularly welcome the most recent revisions to the carbon accounting and forest harvest residue retention requirements, as well as the enhanced minimum efficiency thresholds. These revisions substantially reverse prior inconsistencies with the Manomet Study and the growing body of carbon accounting science, and respond to key recommendations set forth in the June 10, 2011 recommendations of the co-Chairmen of the Joint Committee on Telecommunications, Utilities & Energy (“June 10 Committee Report”).

The following highlights some of the most important corrections to the rules governing woody biomass eligibility for the Massachusetts RPS, and suggests reasonable further changes that DOER should consider adopting:

- **The revised GHG accounting guidelines represent a substantial, essential and well-founded improvement over the draft guidelines released in May 2011.** We greatly appreciate that the guidelines for determining the GHG profiles of eligible woody biomass have been fundamentally realigned to promote consistency with relevant science. The carbon accounting distinction that the revised guidance draws between harvest byproducts – i.e., “residues” – on the one hand, and thinned whole trees, on the other, is an *essential* correction. While the revised guidance cannot be expected to perfectly capture the exact carbon profile of every material used as biomass fuel, the revisions strike a practical balance that can be expected to promote greater reliance on residues rather than whole trees, consistent with the basic instructions of the Manomet Study and the emerging worldwide body of related carbon accounting science. Importantly, these changes to the carbon accounting guidelines will, in turn, help secure the benefits of the rules’ requirement for a 50% reduction in GHGs as compared to natural gas over a 20-year time frame.

- **Another critical improvement is the requirement for eligible facilities in most instances to meet a 50% minimum efficiency threshold to qualify for partial incentives.** By increasing the minimum efficiency threshold for eligible biomass power conversion units to 50%, in most instances, in order to secure partial Renewable Energy Certificates (“RECs”), the revised rules represent a material improvement over the May 2011 draft. This important revision will help ensure consistency not only with the Massachusetts GWSA’s requirements but also with the RPS requirement that biomass eligibility be limited to “low emission advanced biomass conversion technology.”

Although the elevated minimum efficiency threshold unquestionably represents an improvement over the 40% minimum efficiency threshold that was proposed in the Fall 2010 and May 2011 draft regulations and guidance, it does not go far enough:

- While the increase to a minimum efficiency threshold of 50% for most eligible units represents a significant improvement, this standard still allows or encourages undue waste of a finite energy resource. In a recent survey of biomass combined heat and power technologies, the United States EPA recognized the commercial availability of technologies that achieve 60 to 80% efficiency. Facilities in this range have been deployed in the U.S. and, to an even greater extent, in Europe, and such greater efficiency should be fostered here in connection with the Massachusetts RPS as well. *We therefore look to DOER to continue to revisit the minimum biomass*

*efficiency threshold consistent with the July 7, 2010 directive of former EEA Secretary Ian Bowles, the goals laid out in Section 116 of the Massachusetts Green Communities Act, and the availability of existing technology that achieves greater efficiency – all of which support a minimum threshold of 60%.*

- We are disturbed by the inclusion of “Merchantable Bioproducts”, while excluding them from the efficiency standards. If in fact, DOER will continue to include bioproducts, they should be held to scientific standard of 60% efficiency threshold.

In closing, we thank you for correcting demonstrable flaws in the May 3, 2011 version of the draft rules governing woody biomass eligibility pursuant to the Massachusetts RPS, and for offering this opportunity to comment on the proposed final rules. We commend your leadership and commitment to groundbreaking science-based biomass policy. And we urge you to move forward expeditiously to finalize and implement the proposed final regulations and guidance.

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